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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,296	02/10/2007	Arkadiusz Lowiecki	PALL-00101-NUS	7038

33794 7590 10/08/2008  
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EXAMINER
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ARK, DARREN W

ART UNIT	PAPER NUMBER
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3643

NOTIFICATION DATE	DELIVERY MODE
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10/08/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTORECEIPT@GMAIL.COM  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/595,296	<b>Applicant(s)</b> LOWIECKI, ARKADIUSZ	
	<b>Examiner</b> Darren W. Ark	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/26/2007</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 1, the terms “the spherical part of the spherical cap” and “the point of their intersection” lack positive antecedent basis.

In regard to claim 1, the phrase “on both sides of the hook eye” renders the claim vague and indefinite since the sides of the hook eye were not previously set forth.

In regard to claim 2, the term “the intersection angle” lacks positive antecedent basis.

In regard to claim 3, the term “might be” fails to positively set forth the desired invention.

In regard to claim 4, the term “the length of the cutting blade” and “the diameter of the hemisphere” lack positive antecedent basis.

In regard to claim 4, the phrase “that the blade it reaches up to the hook eye” renders the claim vague and indefinite.

In regard to claim 5, the phrase “it might comprise” fails to positively set forth the desired invention.

In regard to claim 5, the term “the bearing” lacks positive antecedent basis.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan 4,738,047.

Ryan discloses a spherical jig head (30) with a hook (12) and a hook eye (20), the head having two symmetrical cut-off surfaces (66) on both sides of the hook eye (see Figs. 4, 5), wherein planes parallel to the cut-off surfaces intersect at an angle which appears to be obtuse, and a cutting blade (40, 60) attached at the point of intersection (where 66 meet; see Fig. 1), but does not disclose the planes intersecting at an angle ranging from 65 to 30 degrees. It would have been an obvious matter of design choice to design the planes such that they intersect at an angle ranging from 65-30 degrees since applicant has not disclosed that by doing so is critical to the design or solves any particular problem, and it appears that the jig head of Ryan would perform equally as well by doing so and because by designing the planes such that they intersect at a smaller range of angles such as 65-30 degrees would result in the positioning of the simulated eyes at a location which faces more laterally to the side which would better simulate the positioning of the eyes on a real fish which are located on the sides of the body.

In regard to claim 5, Ryan does not disclose a spring (the phrase “might comprise” is being interpreted such that a device without a spring such as Ryan meets such limitation).

5. Claims 4, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan 4,738,047 in view of McQueeny 5,950,347.

Ryan does not disclose the length of the blade being less than a diameter of the head or the spring embracing the hook, the spring with one end fixed to a bearing which bearing is connected to the head via a bushing. McQueeny discloses the length of the blade being less than a diameter of the head (see Fig. 2 where diving lip length is less than diameter of at mid-section of 22) the spring embracing the hook (via 36b), the spring with one end fixed to a bearing (32a) which bearing is connected to the head via a bushing (34). It would have been obvious to one of ordinary skill in the art to modify the lure of Ryan such that the length of the blade being less than a diameter of the head and the spring embracing the hook, the spring with one end fixed to a bearing which bearing is connected to the head via a bushing in view of McQueeny in order to provide a blade which will cause the lure to dive at shallow depths and a means for automatically hooking a fish that strikes the hook.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Godsey 2,739,407 discloses a head (12, 14), a short blade (66), a hook (16, 24), and a spring (64) to assist in releasing the hook from obstructions (see

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Fig. 3). Weber 4,514,926 discloses a head (plug lure), a short blade (diving lip), a hook (on lure), and a spring (12) to assist in releasing the hook from obstructions (see Fig. 6).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (571) 272-6885. The examiner can normally be reached on M-F, 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darren W. Ark/  
Darren W. Ark  
Primary Examiner  
Art Unit 3643

DWA